

REMARKS

This Application has been carefully reviewed in light of the Advisory Action dated September 7, 2006. In order to advance prosecution of this Application, Claims 1 and 6 have been amended. Applicant respectfully requests reconsideration and favorable action for this Application.

The Examiner issued a Final Action on June 21, 2006. Applicant submitted a Response to Examiner's Final Action on August 21, 2006. The Examiner issued an Advisory Action on September 7, 2006 stating that the Response to Examiner's Final Action would not be entered because it raised issues requiring further consideration and/or search. Applicant respectfully requests continued examination of this Application so that the Response to Examiner's Final Action can be entered and considered by the Examiner pursuant to this Request for Continued Examination. For the convenience of the Examiner, the amendments made to the claims in the Response to Examiner's Final Action and the accompanying comments are repeated herein.

Claims 1-18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Doshi, et al. in view of Forin and further in view of Jones, et al. Applicant respectfully traverses this rejection.

With respect to Independent Claims 1 and 6, there is recited in general an ability to send a first data packet of a packet flow over a first one of a plurality of channels selected according to the channel capacities of the plurality of channels and send a second data packet in the packet flow over a second one of the plurality of channels, different from the first one of the plurality of channels, as a result of the varying capacities of the plurality of channels. By contrast, the Doshi, et al. patent discloses only a single communication

path 121 for transmission of packets. The Doshi, et al. patent merely discloses that the single communication path 121 may be a tandem transmit path 121 and receive path 122. Accordingly, the Doshi, et al. patent only supports the capability of having intermediate packet switches interconnected by data links along communication path 121 and in tandem along communication path 122. Thus, there is no disclosure in the Doshi, et al. patent that supports a capability to send a data packet over a selected one of a plurality of channels and send a subsequent data packet over a different one of the plurality of channels as required in the claimed invention. Moreover, the Forin patent discloses constructing packets having sizes based on credits but does not include any additional material related to selecting from a plurality of channels for packet transport found lacking in the Doshi, et al. patent. The Examiner attempts to overcome the deficiencies of the Doshi, et al. and Forin patents by citing the Jones patent in combination therewith. However, the Jones, et al. patent merely discloses receiving credit packets for specific virtual channels. There is no disclosure in the Jones, et al. patent that allows its transmitter to select one of a plurality of channels for transmission according to channel capacities and that a second packet in a packet flow is sent on a different one of the plurality of channels than a first data packet of the packet flow. The system of the Jones, et al. patent only knows that it can send out a packet from a buffer on a particular channel when it receives a credit for that virtual channel. Thus, the sender of the Jones, et al. patent has no capability to select from a plurality of channels let alone based on the channel capacities of the plurality of channels as required by the claimed invention.

With respect to Independent Claims 11 and 15, there is recited in general the ability to receive a plurality of data packets in a non-sequential order over different ones of a plurality of channels. By contrast, as noted above, the Doshi, et al. patent receives all packets over the same communication path 122. Moreover, the Doshi, et al. patent transmits packets out in a sequential order for receipt over the communication path 122. Because all packets are transmitted over the same path, the receiver of the Doshi, et al. patent receives packets in sequential order but only stores those packets that are valid in its buffer. Invalid packets would need to be retransmitted. Thus, the Doshi, et al. patent is not able to receive packets in a non-sequential order transmitted over a plurality of channels as required by the claimed invention. Moreover, as noted above, the Forin patent does not include any additional material to offset the deficiencies of the Doshi, et al. patent. The Jones, et al. patent has no disclosure that data packets for a packet flow can be transmitted over different virtual channels. The Jones, et al. patent only transmits packets associated with a particular VCN over that VCN when a credit has been received. (See col. 3, lines 12-14, and col. 4, lines 26-28, of the Jones, et al. patent). Thus, the Jones, et al. patent is not capable of receiving a plurality of data packets of a packet flow in a non-sequential order over different ones of a plurality of channels as provided in the claimed invention.

As discussed above, none of the cited documents, alone or in combination, disclose the features of the claimed invention. Therefore, Applicant respectfully submits that Claims 1-18 are patentably distinct from the proposed Doshi, et al. - Forin - Jones combination.

This Response to Examiner's Final Action is necessary to address the Examiner's characterization of the prior art in support of the rejection to the claims. This Response to Examiner's Final Action could not have been presented earlier as the Examiner has only now provided the current characterization of the cited art in supporting the claim rejections.

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CONCLUSION

Applicant has now made an earnest attempt to place the Application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of all pending claims.

The Commissioner is hereby authorized to charge any amount required or credit any overpayment associated with this Application to Deposit Account No. 02-0378 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicant

A handwritten signature in dark ink, appearing to read 'Charles S. Fish', is written over the printed name.

Charles S. Fish

Reg. No. 35,870

September 20, 2006

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